

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROVER PIPELINE, LLC,

Plaintiff,

Civil Action No. 17-cv-10365

v

HON. MARK A. GOLDSMITH

1.23 ACRES OF LAND, MORE OR LESS,
PERMANENT EASEMENT
(PIPELINE RIGHT-OF-WAY SERVITUDE),
et al.,

Defendants.

ORDER DENYING PLAINTIFF'S MOTION TO APPOINT COMMISSION (Dkt. 678)
WITHOUT PREJUDICE

On March 30, 2017, Plaintiff Rover Pipeline, LLC filed a motion to appoint commission (Dkt. 678), in which it seeks to have a three-person commission determine the issue of just compensation, in lieu of jury trials. Defendants filed responses (Dkts. 689-691, 695), in which they express their opposition to a commission. Rover subsequently filed its reply to the responses (Dkt. 696), and a hearing was held on May 24, 2017. The motion was also discussed in the parties' January 15, 2018 status report (Dkt. 797), and at an in-person status conference held on January 22, 2018.

The Court believes it prudent to defer adjudication of the motion at this time. The Federal Rules of Civil Procedure state that, when considering whether to appoint a commission, a court must examine "the character, location, or quantity of the property to be condemned." Fed. R. Civ. P. 71.1(h)(2)(A). Since Rover's motion was filed, the number of properties at issue in this case has substantially decreased. It is very possible that this number will continue to change as the parties continue negotiations, and as the Court decides pretrial motions. Until the Court has a

better picture of the remaining landowners and tracts, it cannot make a ruling on the propriety of a commission. As a result, the Court denies without prejudice Rover's motion to appoint a commission. Following further developments in the case, the Court will issue an order stating when Rover may file a renewed motion.

SO ORDERED.

Dated: January 25, 2018
Detroit, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on January 25, 2018.

s/Karri Sandusky
Case Manager